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BILL



ANALYSIS

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Senate Bill 875 (as introduced 2-27-18)
Sponsor: Senator Margaret E. O'Brien
Committee: Judiciary

Date Completed: 2-27-18

CONTENT

The bill would amend the Revised Judicature Act to do the following:

- **Exempt a claim against the State for sexual misconduct committed against an individual who was less than 18 years old from requirements to file a claim or a notice of intention to file a claim, and to have the claim or notice signed and verified by an officer authorized to administer oaths, within certain time frames.**
- **Specify that such a claim or the notice required for such a claim could be filed at any time after the event or events that gave rise to the claim, and without the signature and verification otherwise required.**
- **Allow the Michigan Supreme Court to adopt special rules to allow a claimant to bring a claim without providing for the signature and verification, and in a manner that protected his or her identity.**

The amendments would have to be applied retroactively to January 1, 1993.

The Act specifies that a claim may not be maintained against the State unless the claimant, within one year after the claim has accrued, files with the clerk of the Court of Claims either a written claim or a written notice of intention to file a claim against the State or any of its departments, commissions, boards, institutions, arms, or agencies. Among other things, the notice must include a signature and verification by the claimant before an officer authorized to administer oaths, and, if the claim is for property damage or personal injuries, the claim or notice must be filed within six months after the event that gives rise to the claim.

Under the bill, these requirements would not apply to a claim for sexual misconduct committed against an individual who was less than 18 years of age. The claim or notice required for such a claim could be filed at any time after the event or events that gave rise to the claim. Both of the following would apply to a claimant who brought a claim for sexual misconduct:

- The claimant could bring his or her claim without providing for the signature and verification required.
- The claimant could bring his or her claim in a manner that protected his or her identity throughout the proceedings.

The Michigan Supreme Court could adopt special rules of procedure under Section 6422 to implement that protection. (Section 6422 specifies that practice and procedure in the Court of Claims generally must be in accordance with the statutes and court rules prescribing the practice in the circuit courts, but authorizes the Supreme Court to adopt special rules for the Court of Claims.)

The bill would have to be applied retroactively to January 1, 1993.

"Sexual misconduct" would mean conduct described in Section 136, 145a, 145, 145b, 145c, 520b, 520c, 520d, 520e, or 520g of the Michigan Penal Code, regardless of whether the conduct resulted in a criminal conviction. (Those sections prohibit the following conduct, respectively: female genital mutilation, contributing to the neglect or delinquency of a minor, accosting or soliciting a minor for immoral purposes, accosting or soliciting a minor for immoral purposes after a prior conviction, child sexually abusive activity, first-, second-, third-, and fourth-degree criminal sexual conduct (CSC), and assault with intent to commit CSC.)

The bill would take effect 90 days after its effective date.

MCL 600.6431

Legislative Analyst: Jeff Mann

FISCAL IMPACT

The bill would have an uncertain but likely fiscal cost to State government and no fiscal impact on local government. As the bill would exempt claims against the State for sexual misconduct involving a child from requirements to file a claim or notice within a certain time frame, and to have the claim or noticed signed and verified by an officer authorized to administer oaths, and would make the exemption retroactive to January 1, 1993, the possible cost to the State is uncertain. If the bill resulted in a large number of case filings, it could increase costs for administration and salaries. The bill also could result in significant costs to the State for judgments, settlements, and litigation costs.

Fiscal Analyst: John Maxwell
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